IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL APPLICATION NO.796 OF 2007
IN
CRIMINAL APPEAL NO. ..... OF 2007

The State of Maharashtra .... Applicant
Vs.
Vishwas Maruti Khandale & Ors. .... Respondents

Ms V.R. Bhosale, APP, for the Applicant.

Shri Sudatta Patil for the Respondents.

CORAM: R.M.S. KHANDEPARKAR &
Smt. V.K. TAHILRAMANI, JJ.

DATED: JULY 04, 2007

P.C:

Heard. The State seeks leave to file appeal against the order passed by the Sessions Court whereby the appeal filed by the respondents against their conviction under Section 326 of the IPC has been allowed and it has been modified to conviction under Section 324 of the IPC, as also their imprisonment has been confined to 15 days. While interfering in the impugned order passed by the trial Court, the lower Appellate Court has clearly observed that the prosecution had failed to adduce the best possible evidence about the grievous hurt in the form of X-ray plates, notes of surgery, evidence of surgeon and, therefore, the conviction under Section 326 was not justified. Undisputedly, the doctor was not at all been examined in the case in hand. Being

so, there is absolutely no case for interference in the impugned order or to hold that the respondents could be punished under Section 326 of the IPC. Hence the application fails and is rejected.

(Smt.V.K.Tahilramani, J.) (R.M.S.Khandeparkar, J.)

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